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CITY OF LOS ANGELES Business Improvement Districts Policy and Implementation Guidelines

Introduction

The process of establishing a BID is, first and foremost, a process which must originate from and be developed by the business community itself. The City will provide various types of assistance in order to support the development effort and will monitor the progress of an established district. However, the City will not initiate or impose the development process; the motivation and request for district establishment must be generated by the business community. Establishing and operating a BID involves an assessment which is levied by the City only after significant support from the community is demonstrated. *This assessment then goes not to the City but directly back to the BID community to support its agreed upon programs.* A district will derive much of its success directly from the efforts of its members, each of whom may help to decide what types of projects will cost, and the amount of assessment each member in the district will pay to support the projects. A BID is truly a business community driven entity.

This policy seeks to establish guidelines for communities interested in establishing a Business Improvement District (BID) in the City of Los Angeles. The policy is a result of experience both within the City, as well as from the thousand of BIDs already in operation throughout the U.S. In this context, the policy supports business and property owners who want to take the lead in an effort to establish a BID.

The City of Los Angeles recognizes the importance of fostering public-private partnerships to restore and maintain the health and vitality of Los Angeles' neighborhood business districts. The City will actively assist groups interested in establishing BIDs by providing City staff and funding resources to guide groups through the process. The purpose of this policy is to provide guidelines to establish and administer BIDs within the City. The City recognizes the benefits of BIDs, as well as the unique and varied needs of the neighborhood business districts throughout Los Angeles.

City BID Task Force to Assist BID Proponents

The City has created a BID Interdepartmental Task Force to facilitate the developments of BIDs and

help guide and direct BID policy. This Task Force reports directly to the Community and Economic Development Committee and the Budget and Finance Committee.

The Task Force is comprised of representatives from the following offices and departments:

- Building and Safety
- City Council representation
- Chief Legislative Analyst
- City Attorney's Office
- City Clerk's Office
- Department of Transportation
- Community Development Department
- Community Redevelopment Agency
- Mayor's Office of Economic Development
- Planning Department
- Public Works

The City Clerk's Office will serve as the central coordinating office to maintain the Task Force, as well as guide BIDs through the City process. The City Clerk will develop and publish materials that explain a BID to the communities. These materials can be distributed by the Consultants. BID proponents should direct their questions to the Office of the City Clerk's Special Assessments Unit at (213) 237-0996. The City Clerk's Office will work closely with each department as well as the respective council offices to ensure a BID's success. In addition, the Community Development Department, the Community Redevelopment Agency, as well as LA's Business Team within the Mayor's Office of Economic Development, will continue to serve as the City's marketing arm for BIDs and assist communities with pre-BID activities.

What is a Business Improvement District?

A Business Improvement District is a geographically defined area in which businesses or property owners have requested that the City assess them for additional services designed to improved the business climate of the area. The BID and the assessment are created under two State laws:

1. The Parking and Business Improvement Act Law of 1989 allows business owners to assess themselves;
2. The Property and Business Improvement Law of 1994 allows owners or real property within a defined area to assess themselves; and
3. Both laws could be utilized to assess both business and property owners within a defined area.

Property and/or business owners within the defined area receive special services designed to improve the business climate of the area.

The level and types of services are determined by the BID. Services may include, but are not limited to:

- parking facilities/restrooms
- security/community policing
- maintenance
- graffiti removal
- street scape improvements
- marketing
- special events
- seasonal decorations
- sidewalk improvements
- street lighting
- decorations
- trash receptacles
- fountains

The goals of a business improvement district include, but are not limited to:

- increased pedestrian traffic for business
- increased property values
- increased tax base for the City

These benefits are realized through the variety of services provided, as well as guidance and support from the City.

Establishing a Business Improvement District

The City Clerk's Office will make available materials explaining what a BID is, the difference between a tenant based and property owner based BID, as well as the advantages and disadvantages of each. These materials are considered background materials to assist BID proponents with the first steps of organizing a BID.

Role of the BID proponents - The community proponents of the BID must be representative of those persons who will be assessed if/when a BID is established and they must be prepared to take an active role in the development of the BID. The City requires that the proponent group be a recognized entity within the business community that can enter into contracts with the City. The proponents must lead the BID effort and provide guidance and leadership within the business community to ensure the highest probability for success of the BID. The organization should establish a "core group" or Advisory Committee that can work with the City to actively develop the BID. As a part of this process, the proponent group will work with the City Clerk to encourage all business owners to obtain a business license.

Generating Community Support - The proponents of a BID must initially demonstrate that the businesses and/or property owners have an interest in the formation of a BID. The City highly recommends this "grass roots" involvement of business and/or property owners, as it has proven to be an essential ingredient to the success of a BID. In addition, the City will not grant seed capital until adequate community support has been documented. Community support could include:

1. An informal petition signed by a significant number of the affected community;
2. Research completed which proves the community understands the way a BID works and how it affects the community; and/or
3. A core advisory group which will take the lead on planning and formation of the BID.

Establishment of realistic time lines regarding the formation of a BID is strongly recommended. Generating community support, documenting the necessary support, and developing a management plan, as well as collecting the funds, all take a substantial amount of time. Communities should not expect to see success overnight. Realistic expectations as to what the benchmarks for success will be will contribute to the overall success of the BID.

The City Clerk's Office will provide a mechanism for evaluating community support for each BID to ensure the investment of seed capital is responsibly granted to communities with a high chance of success in their BID efforts.

Funding for Consultants - City funding is available to hire a consultant to assist with the development of a BID, as long as the City has funds available for this assistance. The consultant's role is to work with the BID proponents, document community support, and develop a management plan for the BID. The consultant should also prepare time lines, based on his/her experience, and after the consultation with the City Clerk, provide the community a realistic idea of how long it will take to establish the BID.

The amount of seed capital granted will depend on the scale, size and complexity of the proposed BID. The request for seed capital should not exceed \$75,000. Typical requests have ranged from \$15,000 - \$75,000. The City Clerk's Office will work with the community to establish a realistic budget for seed capital and recommend to the City Council when funds should be allocated. Seed capital will be allocated based on the merits of the grant proposal. Merit will be determined by demonstrated community interests and could include documentation of education/informational meetings attended by the majority of business/property owners, submission of an informal petition, etc. The seed capital amount has two components: a *Non-Repayable or Grant Portion* and a *Loan Portion*.

Non-Repayable or Grant Portion- The City's experience has shown most of the funding for BID formation is used to conduct feasibility analysis. A maximum grant of \$40,000 may be provided for this initial study and a review is conducted to ensure that the amount requested is appropriate. A match of up to 50%, and no less than 15% of the requested amount is required for all new proposed BIDs. This match can be in cash or documented in-kind contributions; the percentage required will

be determined on a case-by-case basis. Examples of in-kind contributions include printing, office space, staff time, etc. This has proved to be an adequate incentive for business communities to establish BIDs and at the same time provides a means to show their level of interest in seeing the process through to its fruition. The City recognizes that there may be instances where a cash contribution would be prohibitive particularly for economically disadvantaged areas. In these situations, a prospective BID may apply as a hardship and have the cash contribution waived.

Loan Portion- The balance of the seed funding amount, up to a maximum of \$35,000, may be provided as a zero-interest loan repayable in annual increments over five years. This loan portion is provided only if feasibility is established and is paid incrementally based on a proposal submitted by the consultant or BID. The loan is not intended to be prohibitive but ensures that a level of interest and seriousness is maintained in establishing the BID gives the City confidence that its investment in the potential BID is maximized

BIDs that wish to renew, expand or change boundaries may be allocated seed funds when these activities essentially require the process to start from the beginning and if the funding is available that will not be required for new BIDs. If funds are allocated, a match of 50% of the requested amount is required at least 15% of which must be in cash. The City Clerk will review the submitted documentation and will provide a funding recommendation to the Mayor and City Council.

Selecting a Consultant - The City Clerk's Office will make available a list of potential consultants for the Advisory Committee to contact. The Advisory Committee will work with the City and together, interview a minimum of three consultants. If a BID group is not requesting seed capital from the City, the City does not have to be involved with the selection of a consultant. Consultants interested in being on the City's list should submit his/her qualifications to the Office of the City Clerk. This process is open; a consultant may submit his/her qualifications at any time. However, the City will be looking for consultants who have successfully demonstrated the capability to guide a community through the BID process, from planning through implementation.

The City will contract with an Advisory Committee or a consultant. The Advisory Committee should be a legally formed entity to enter into a contract with the City. If the City enters into a contract with a consultant, the contract will require sign-offs from the Advisory committee or community BID proponents. The contract will require all funds to be used only to implement and complete the required petition process, formulate a management plan, devise an assessment formula, communicate and meet with the business/property owners, and prepare and assist with the submittal of the formal BID documents to the City Council. The cost of the engineer's report required by Proposition 218, for Property-based BIDs, is also an allowable cost to the contract.

Assessments - State law requires that, the assessment formula should be fair and equitable, based on the unique service needs and character of the community. The assessments for each business and/or property must be based on benefits received from the services provided. The management plan should be written by the consultant in sufficient detail to allow business/property owners to understand what services and activities will be funded. The assessment formula must be stated in

terms that will allow the individual business/property owners to determine how much he/she will be assessed. The City will distribute examples of management plans, budgets, and assessment formulas. It is recommended that the BID Advisory Committee and its consultants work with the City Clerk's Office throughout this process. The City can then review proposed work and give feedback to the prospective BID, before the final package goes before City Council. The City Clerk will work with the City Administrative Officer and the community proponents group to determine the appropriate assessment for publicly owned/leased properties.

City Council Adoption of the Business Improvement District

The Council process of BID submissions, protests, and resolutions shall be consistent with California Streets and Highways Code Section 36520 and 36620-36630 inclusive. Both property and business owner based BIDs are subject to these processes.

The BID proponents are responsible for submitting the following items to City Council in order to establish a BID:

- List of recommended individuals who will serve on the Advisory Board;
- A description of the BID boundaries;
- The management plan including an assessment schedule, a budget, and a description of services and programs to be funded; and
- A petition signed by the business owners for tenant based BIDs, or property owners for property based BIDs.

Proponent groups working to establish Property-Based BIDs are responsible for the cost of reproducing the Management District Plan and the cost of mailing the ballots.

Once the BID proponents submit the above materials, a preliminary hearing will be held before the City Council's Community and Economic Development Committee. The City will prepare the necessary report, including the draft Resolution of Intention and Notice to be mailed to all impacted businesses or property owners. The Committee, once it approves of the BID materials, will submit the BID to the full Council for the required hearings. The first hearing will be for the adoption of the Resolution of Intention to levy the BID assessment and to approve the Advisory Board and management plan. The Advisory Board will serve as an oversight committee, reporting annually to Council that the service provider is providing services efficiently and in accord with the specifications of the management plan. The Advisory Board also provides annual report as set forth in California Street and Highways Code Section 36533 and 36633.

The public meeting required by the government code section 54954.6 can be combined with the hearing for the Resolution of Intention. The second hearing will be for adoption of the Assessment Ordinance, which also legally established the BID. The City Clerk's Office will mail the required notices to all business and property owners that are to be assessed, announcing the date and time of the two hearings and attaching a copy of the Resolution of Intention.

At the second hearing, City Council will consider the written protests that have been submitted by the impacted community before adopting the Assessment Ordinance. If protests exceed more than 50% of the value to be assessed, no further proceedings can be undertaken for one year from the finding of the 50% protest.

The City Council can proceed with the BID if the protest is less than 50%. However, BID proponents are cautioned that they should not expect a favorable vote from the City Council with a significant number of protests.

Operation of the BID

Once a BID is formally established, the Advisory Board must designate a "service provider" to contract with the City and provide services. The City will only enter into a contract with a legally formed California non-profit organization.

BID assessments will be collected from business owners by the City Clerk and from property owners by the County of Los Angeles. The City may advance funds for the first quarter of a new district so that the district can commence work prior to the collection of the assessments. The funds advanced will not exceed one quarter of the total assessment. The advanced funds will then be deducted from the first year's disbursement. In the instance of a tenant-based BID, if a business is not in the district for the entire fiscal or operating year of the district, the business will not be refunded any portion of its paid assessment. That assessment will remain in the BID account as not to overburden those businesses remaining in the district. Any funds remaining at the end of a fiscal year can be spent at the discretion of the Advisory Board of the Board of the BID, subject to approval by the City Clerk's Office and subject to the budget approved by the Council.

BID Formation Assistance

On May 30, 2000 the Los Angeles City Council adopted recommendations contained in a Community and Economic Development Committee report that made several changes regarding the Citywide BID Program, Policy and Implementation Guidelines. Among the changes was the previous policy allowing for BID assessment credit for merchant-based BIDS in economically disadvantaged areas. With the intent of providing an equitable and temporary subsidy encouraging the formation of BIDs where the community possessed limited initial financing, businesses were allowed a credit against their assessment using a portion of their business tax payment. This policy has been eliminated because it inadvertently penalized businesses who paid their taxes consistently, was labor intensive and did not accomplish what was intended.

Other forms of assistance currently available include, the waiver of all City costs associated with the establishment of a BID and the waiver of indirect costs associated with the administration of a BID once it is established. Additionally, with required City Council action, established BIDs are able to receive an advance of up to 25 percent of annual projected assessments in order to meet cash flow needs.

Renewals

A Property based BID has a fixed life. The life of a Property based BID is for a period of up to five years (10 years if established under the Alpha BID Ordinance), and the authority to levy the annual BID assessment continues for the life of the BID. A tenant based BID is different. Once established by the City Council, a tenant based BID remains established until disestablished by a formal City Council action. However, the annual assessment on the tenants must be approved by the City Council after reviewing the annual district report and proposal for use of the assessment funds during the upcoming year; this is known as the "renewal" or "reconfirmation" process. This annual procedure for funding authority requires the Advisory Board of tenant based BIDs to initiate the renewal process well in advance of the start of each operating year to ensure that there will not be a break in funding.

Alpha BID Ordinance

Many commercial areas of Los Angeles have high numbers of absentee landlords thus making it difficult and costly for property owners who are present to participate in the BID program. Recognizing this, the City Council adopted the Landscaping, Lighting, Security, Programming, and Maintenance Property Business Improvement District Ordinance ("LSPM PBID" or Alpha BID Ordinance) on March 31, 2000. This ordinance created a new method for establishing a property-based BID. With the passage of this ordinance and provided that certain criteria were met, the life of the PBID could be up to a 10-year period, the required petition signatures for establishment was reduced from 50% to 30% with the amount of a single owner's weighted assessment reduced from 40% to 20% (the point at which the owner's signature would not count towards the 30%) and landscaping, maintenance, and business improvements districts were combined into one.

The criteria for PBID establishment under the Alpha BID Ordinance is that the proposed BID be within an area defined as a "special economic incentive zone." These are areas of the City of Los Angeles which have been designated under one of the following programs: Los Angeles Neighborhood Initiative areas (LANI); Targeted Neighborhood Initiative areas (TNI); Transportation Orientated Districts (TOD); or are commercial or industrial tracts with a poverty level of 20% or higher.

Proposition 218 and Property Based BIDs

Procedures regarding voting requirements for property based BIDs, as mandated by Article XIII (D) of the California Constitution (Proposition 218), will be implemented by the City Clerk. Property-based BIDs cannot go forward if the City receives a majority protest vote of those property owners who have returned their ballot on the issue of levying an assessment. This is an additional requirement to the BID formation process. Proposition 218 requires that a certified engineer's report be completed and included as part of the assessment methodology. The cost of the engineer's report shall be borne by the proponent group.

Improvements on City Property

If a BID makes physical improvements to City property it must provide insurance to assure no City liability, must bond the improvements work and must submit an estimated cost of maintaining the improvements with the annual proposed budget. The Council may require the improvements to be removed if a district is disestablished.

Reimbursement of City Funds

The City will recover the direct costs related to the billing, collection, accounting, and financial transactions of the BID. Direct costs also include salaries, expenses, equipment and any cost charged to the City by Los Angeles County. The City will provide for each BID a realistic estimate of these costs in advance of billing, as well as an accounting of the actual time spend once the BID has been billed. The cost of collection of delinquencies will be borne by the penalty assessed for late payments.

Disestablishment

A BID may be disestablished if:

1. Misappropriation of funds, malfeasance, or a violation of law in connection with the management of the BID;
2. Majority Protest; and/or
3. In the instance of a tenant based BID, disestablishment for any reason upon the action of the City Council to adopt the Ordinance.

If there are funds remaining at the end of a fiscal year, but the district is disestablished, the remaining funds shall be used first to pay any outstanding City costs. The remainder, if any, shall be returned on a pro-rata basis to the business/property owners which are still within the former district's boundaries. The City Clerk shall be responsible for monitoring the above noted disestablishment criteria and shall propose a disestablishment process to the City Council when deemed appropriate. This proposal shall be reviewed by the City Attorney prior to refunding any remaining district funds.